

By: Shine

H.B. No. 1619

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution and punishment of certain outdoor burning violations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 382.018, Health and Safety Code, is amended by adding Subsection (f) to read as follows:

(f) If conduct that violates a rule adopted under this section also violates a municipal ordinance, that conduct may be prosecuted only under the municipal ordinance, provided that:

(1) the violation is not a second or subsequent violation of a rule adopted under this section or a municipal ordinance; and

(2) the violation does not involve the burning of heavy oils, asphaltic materials, potentially explosive materials, or chemical wastes.

SECTION 2. Section 7.187(b), Water Code, is amended to read as follows:

(b) Notwithstanding Section 7.177(a)(5), conviction for an offense under Section 382.018, Health and Safety Code, is punishable as:

(1) a Class C misdemeanor if the violation is a first violation and does not involve the burning of heavy oils, asphaltic materials, potentially explosive materials, or chemical wastes

~~[waste is not a substance described by Subdivision (3)];~~

1 (2) a Class B misdemeanor if the violation is a second  
2 or subsequent violation and:

3 (A) the violation does not involve the burning  
4 of:

5 (i) substances described by Subdivision  
6 (1); or

7 (ii) insulation on electrical wire or  
8 cable, treated lumber, plastics, non-wood construction or  
9 demolition materials, furniture, carpet, or items containing  
10 natural or synthetic rubber; or

11 (B) the violation involves the burning of  
12 substances described by Paragraph (A)(ii) and none of the prior  
13 violations involved the burning of substances described by  
14 Subdivision (1) or Paragraph (A)(ii) [~~under Subdivision (1)~~]; or

15 (3) a Class A misdemeanor if the violation:

16 (A) involves the burning of substances described  
17 by Subdivision (1); or

18 (B) is a second or subsequent violation and  
19 involves the burning of substances described by Subdivision  
20 (2)(A)(ii) and one or more of the prior violations involved the  
21 burning of substances described by Subdivision (1) or (2)(A)(ii)  
22 [~~tires, insulation on electrical wire or cable, treated lumber,~~  
23 ~~plastics, non-wood construction or demolition materials, heavy~~  
24 ~~oils, asphaltic materials, potentially explosive materials,~~  
25 ~~furniture, carpet, chemical wastes, or items containing natural or~~  
26 ~~synthetic rubber]~~.

27 SECTION 3. The change in law made by this Act applies only

1 to an offense committed on or after the effective date of this Act.  
2 An offense committed before the effective date of this Act is  
3 governed by the law in effect on the date the offense was committed,  
4 and the former law is continued in effect for that purpose. For  
5 purposes of this section, an offense was committed before the  
6 effective date of this Act if any element of the offense occurred  
7 before that date.

8 SECTION 4. This Act takes effect September 1, 2017.